

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA  
VIRGINIA DRILLING COMPANY, LLC,

Plaintiff,

v.

Civil Action No. 17-C-1130

JUSTICE LOW SEAM MINING, INC.,

Defendant.

**MOTION TO WITHDRAW AS COUNSEL FOR  
JUSTICE LOW SEAM MINING, INC.**

Bailey & Glasser, LLP, and Michael B. Hissam and Rebecca D. Pomeroy, move to withdraw as counsel for Justice Low Seam Mining, Inc. ("Justice Low Seam"), Inc., in the above-styled action pursuant to Rule 4.03 of the West Virginia Trial Court Rules. In support of its Motion, movants state as follows:

1. Bailey & Glasser, LLP, was formerly engaged to represent various Justice Entities, including in this action to defend Justice Low Seam Mining, Inc. ("Justice Low Seam"). Due to a breakdown of the attorney-client relationship, on November 27, 2017, the attorney-client relationship was mutually terminated in writing.

2. At the time that the attorney-client relationship was terminated, this instant matter had previously been settled. On November 27, 2017, it was specifically communicated to the client representatives of Justice Low Seam — and was Bailey & Glasser's understanding — that Plaintiff's counsel would work with Justice Low Seam's in-house counsel to complete the settlement agreement and consummate the final dismissal of this civil action.

3. By letter dated April 13, 2018, Plaintiffs' counsel, Josef Horter, contacted Bailey & Glasser regarding his inability to get the settlement finalized and requesting assistance with the same.

4. By letter dated April 17, 2018, the undersigned on behalf of Bailey & Glasser advised Josef Horter, counsel for Plaintiff, that Bailey & Glasser no longer represented the Justice entities in this or any other matters.

5. Bailey & Glasser advises, consistent with the attached certificate of service, that reasonable effort has been taken to give Justice Low Seam's client representatives and in-house counsel actual written notice of movants intent to withdraw as counsel, consistent with the requirements of Rule 4.03 of the West Virginia Trial Court Rules. Notification was sent via email to those representatives and via certified mail to Justice Low Seam at the address for notice of process maintained by the West Virginia Secretary of State for those entities.

Accordingly, Bailey & Glasser, LLP seeks withdrawal as counsel for Defendant and requests that the Court enter the proposed Order submitted herewith, or, if the Court deems it necessary, to set this matter for hearing.

Respectfully submitted,



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Michael B. Hissam (WVSB #11526)  
Rebecca D. Pomeroy (WVSB # 8800)  
Bailey & Glasser LLP  
209 Capitol Street  
Charleston, WV 25301  
Telephone 304-345-6555  
Facsimile 304-342-1110  
*Counsel for Justice Low Seam Mining, Inc.*

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CERTIFICATE OF SERVICE

The undersigned counsel for Defendant states that the foregoing was served via email and/or US Mail, postage prepaid, on this 18<sup>th</sup> day of June 2018, as indicated below:

Josef A. Horter  
Bailey & Wyant, PLLC  
500 Virginia Street, East, Suite 600  
PO Box 3710  
Charleston, WV 25337  
*Counsel for Plaintiff*

Stephen Ball  
300 W. Main Street  
White Sulphur Springs, WV 24986  
*In House Counsel for Justice Low Seam, Inc.*



Michael B. Hissam (WVSB #11526)